IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

Bail Appl..No. 7478 of 2007()

CRIME 390/07 OF ANCHAL POLICE STATION

PETITIONER/ACCUSED 1 & 2:

---

1. SALEELA.K., SHAMEER MANZIL, VADAMON P.O. CHORANAD, ANCHAL.

2. SHYJU.K., ALUVILA PUTHEN VEEDU, VENCHEMBU P.O., PUNALUR.

BY ADV. SRI.S.PRAKASH

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7478 OF 2007 D

Dated this the 5th day of December, 2007

O R D E R

Application for anticipatory bail. The petitioners are sister and brother. The defacto complainant/victim is the sister-in-law of the 1st accused. The alleged incident took place on 16.11.07. Altogether there are three accused persons. Fracture of the scapula is the injury which has resulted from an attack with a log of wood. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are only victims of aggression and not aggressors. On an earlier date, a complaint has been filed against the de facto complainant by the 1st accused. In these circumstances, the petitioners may be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor opposes the application. There are absolutely no circumstances warranting or justifying the invocation of the jurisdiction under Section 438 Cr.P.C., submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioners must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

aks